

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on April 16, 1999 at 1:00 P.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Keri Burkhardt, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 36, 4/14/1999; SR 7,
4/5/1999
Executive Action: HJ 36, SR 7

HEARING ON HJ 36

Sponsor: REP. HAL HARPER, HD 52, HELENA

Proponents: None

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1:07 - 1:15}

REP. HAL HARPER, HD 52, HELENA, this resolution is to honor the life of J.D. Holmes, who was the old time Capitol reporter. In his later life he was a lobbyist for the arts. We want to honor him for his reporting career. This resolution asks that we name the press room after him. When I was a kid he was covering all the inside halls here. He was a very distinctive figure, fairly tall, always dressed in a black suit, and he had a distinctive waddle and walk so you could see him from the other end of the hall and you always knew who it was. He was a scoop artist. He could come into a committee, that had been going on for four hours, at the right time and in five minutes get the story, scoop all the other reporters, and go into another committee and do the same thing. He never did that deliberately except when recording devices or cameras were there, which he detested. He would wait until the reporter shut off the recorder and then he would ask a question that would turn the story. Then he would get the story and that would be the story he would come out with.

You see a number of "WHEREAS" in the resolution. One of the first says, "Tim Babcock praised him as the fairest person I ever new". From my experience that was absolutely true. Frances Bardanouve said, "he knew more about how much money was spent than we did". The WHEREAS on Line 22 explains that he discovered an error in the budget and as a result we had to have a special session. In the days before we had a well organized and established staff, that had the Fiscal Analysts in what is now a division, many times the budget totals were kept on the back of an envelope and we didn't have running totals. J.D. Holmes kept a little black book in his pocket and he had everything in that book. He had every fact back into territorial times. He could tell you how many members of the current House of Representatives were former socialists. He had things in there that you would not believe. Some members of the family wanted to bury these little black books with him, but thankfully they didn't because these would be records that were lost forever.

In 1991, we had him come to the House and we gave him an award. He was very humble and he almost couldn't speak. When I went to the funeral a number of press people, that he given their start and was the mentor to, got up and gave their antics and talked about the different things he did. Then his son got up and told about what kind of person he was away from work, the things he did at Christmas, and the way he mowed his lawn. He mowed his lawn twice, once in each direction so it was just perfect. It was just like his reporting, everything had to right, accurate, and perfect. I have never heard a person stand up on the Floor of the House or the Floor of the Senate on the point of personal privilege, and complain about J.D. Holmes as we had happen today about a story in the Great Falls Tribune. This person was absolutely dedicated. He was a soldier and had an honorable

discharge. He helped build Frontier Park and found Grandstreet Theater in the city. He was an incredibly valuable person in this area.

His youngest daughter, Vicki, gave him a birthday plaque engraved "Honest Press Man" in the last whereas. This resolution was suggested by a couple of the press people. There were a few votes against this in the House and the idea was that we shouldn't be naming buildings after people, but I think this is justified because there has been a little bit of controversy in the city in Helena about kids not being able to connect to the past. There are many citizens that have made big contributions to our state and our local communities and we have lost touch with that. We need to reconnect with our roots. This is a person who set the standards, not just for reporting, but for dress, his mannerisms, the way he treated people, and the respect that he gave everyone, including, the time he would spend with a freshman as opposed to a governor.

In those old days, often the first reading of a bill was by J.D. Holmes. J.D. Holmes read every single bill introduced in the legislature. That meant he knew more about them than most legislators did, probably put together. It was customary, especially if you were a new legislator and had a bill you weren't sure about, to take the bill to J.D., ask him to read it, and he would tell you how to fix it. That was a service he would perform for free. That was probably the only time we had a true first reading in the history of this state. Now he is gone but his memory may inspire. I think it would be fitting if this newsroom would be named after him because he was something special.

Questions from Committee Members and Responses:

SEN. COLE asked, how long ago did he pass away? **REP. HARPER** replied, he passed away about three weeks ago. His wife passed away within the week.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1:15 - 1:30}

REP. HARPER closed.

SEN. HARGROVE took the Chairman position.

HEARING ON SR 7

Sponsor: SEN. MACK COLE, HD 4, HYSHAM

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SEN. MACK COLE, HD 4, HYSHAM, said, these are the board members that have been submitted to us. I think they have been looked at and I don't believe there are any questions on them. Everyone has done their work. With that, I hope you can pass SR 7.

Questions from Committee Members and Responses:

SEN. TESTER said, I assume that the last six that SEN. WELLS and I did are included in this list, so I assume this will be the last one. SEN. COLE replied, you are correct. David Niss added, the very latest two lists are included in this resolution. One was transmitted April 5th and the other one April 9th.

Closing by Sponsor:

SEN. COLE closed.

SEN. COLE retook the Chairman position.

EXECUTIVE ACTION ON SR 7

Motion/Vote: SEN. WELLS moved that SR 7 DO PASS. Motion carried 5-0.

EXECUTIVE ACTION ON HJ 36

Motion: SEN. TESTER moved that HJ 36 BE CONCURRED IN.

Discussion:

SEN. WELLS said, I thought REP. HARPER made a very good point about people to look up to. This is something we need to do more to try to give more heroes to our youth. I like this resolution.

SEN. COLE asked, have you heard anything about the naming of the rooms?

SEN. HARGROVE replied, no I haven't heard. I think almost every highschool in Helena is named after a previous superintendent. I can see where people might have an argument with that, but I don't see anything wrong with having heroes.

Vote: Motion **carried 5-0.**

{Tape : 1; Side : A; Approx. Time Counter : 1:30 - 1:43}

DISCUSSION ON BOARD APPOINTMENTS

SEN. WELLS said, in discussing these board appointments, I encountered a number of people who said that the only problem was their legal assistance. The problem seems to be that the state government hires some young attorneys and they are assigned to these boards. Then, about the time that they get up to speed and educated in the process, to where they could be effective, they tend to move on because the state government salaries are not that good. About two or three of the different people I talked to said, "if you can do anything up there you should find some way to fund some of this effort outside the state resources to try and get someone who is going to have a little more longevity". I don't know what the procedure would be to do that but I think that ought to be looked into. That was the most prevalent problem mentioned.

SEN. HARGROVE asked, do you have any comments as to whether this process ought to be done a little differently? **Susan Ames** replied, I still question why we need to confirm all of the people on the licensing boards. That is extremely time consuming for me and for you. It costs the state money for the phone calls, the time, and the overtime that I get doing it. These reports take a great deal of time. There is a lot of time involved digging through files. Many times people do not provide a resume to begin with. Sometimes it is very difficult to get all the information needed. Many of the boards you are confirming are Professional Occupational Licensing (POL) boards. There is hardly ever a question about them.

SEN. HARGROVE asked, would it require a change in statute to change that? **Ms. Ames** said, yes. **SEN. HARGROVE** asked, would the Governor care if we changed it? **Ms. Ames** stated, I think the Governor would be in favor of that change because he recognizes the time commitment that it takes for all of us.

SEN. HARGROVE asked, what do you think about putting in a bill draft for next session? **Mr. Niss** replied, that would have been my suggestion. Very shortly after you leave here, a hold over senator should submit a written bill draft request. That will

require the staff person assigned to do the necessary research to come up with the statutes that would have to be changed in order to accomplish that for the Title 37 Boards.

Ms. Ames asked, can you take care of all the licensing boards at one time.

SEN. WELLS said, we could examine it. If we worded the title of the bill properly we could.

SEN. COLE asked, do you have any comments about getting legal advice that is more permanent?

Ms. Ames said, I have noticed that as well. I don't have an answer, but I think it is a matter of money.

Mr. Niss stated, the attorneys for the Title 37 licensing boards have been hired on the same basis as all other state employees, on a classification system with pay grades. Even though someone, because of their legal experience, is hired at a certain grade, all of the departments have the authority, through the director, to make an exception to that grading method. Therefore, the legislative review of the matter, if and when that happened, would be to make sure that those pay grade exceptions are being used properly or at least used in those cases. The review would also include whether there was any statutory impediment application of the pay grade exceptions for those positions.

SEN. COLE asked, is there some senior attorneys that overlook some of the junior attorneys?

Mr. Niss said, in a line agency, like the Department of Commerce, you are pretty well set by the pay grade classification. There are positions in each department, of which, a constitutional officer is head of the department, like the Department of Justice or the Governor's Office, the existing statutes in Title 2, Chapter 18, provide for a specified number of exceptions from the pay grade tables for each of those constitutional officers because they operate as personal staff. As far as I know, that is for constitutional officers and not for the department for which the head is chosen by the Governor.

SEN. TESTER asked, on this last set, one of the individuals said he liked being on the Board, but they really don't do anything and he doesn't see the necessity for it. I was wondering how long some of these boards have been in existence and if there is a review of them, how often that happens. Who's job is it to see if these jobs are necessary? **Ms. Ames** replied, I cannot answer that question exactly. Last session the Department of Public

Health went through and eliminated many of their boards. They combined some and put some of them under their Department instead of under the Governor. It made a big difference. It seems to me that it should be under the Department. They need to go through and do a housekeeping. If it is still in the statute, we still have to appoint that board.

Mr. Niss said, the boards that have been eliminated by some of the departments are not the boards specified in statute, as most of the Title 37 licensing boards are. The boards that have been eliminated, and this particularly applies to those that are part of the Public Health and Human Services because they have done this on a grand scale within the last two years, are the advisory councils that are authorized by 215, 121, and 122, to be appointed by the department head under the theory that if the department head can appoint them then the department head can keep on top of whether they are used correctly, whether they are necessary at all, and if they are not, eliminate them by order of the department head. The department head cannot do that for those that are specified in statute, like all of the POL boards.

SEN. TESTER asked, do these ever get reviewed as to necessity and is that something we should look at for next session? **Mr. Niss** stated, the only review that there is in state government is the post audit function in the Legislative Audit Division. **REP. CARL OHS** has a bill to expand the sunset review requirements to go back to the way we used to do the sunset 6 or 8 years ago, which is to put everyone on a regular schedule and to compare every agency or bill program within an agency to a listed set of criteria.

SEN. TESTER asked, would that effect the Title 37 appointments also? **Mr. Niss** said, yes, but it would effect it only if those programs are listed in that piece of legislation. That is the only "real" review program there is in state government.

SEN. HARGROVE said, it seems like what we do is a review and I would suppose that if we have comments like this then, perhaps through the chairman, we should send a letter to **Ms. Ames** saying, "our brief contact indicates that we ought to look into the necessity for certain boards". Then she would send that to the managing agency or the Governor. Would that be the case? **Ms. Ames** replied, I would assume so. I would assume that the Governor would send it on to the department director.

Mr. Niss said, the other alternative would be to include it in a legislative study resolution. That way it is more or less an independent review.

SEN. COLE said, I would suggest that I send a letter with these concerns and information, with the understanding that there will be a legislative study. **Mr. Niss** explained, the way to get that started is to ask for a suspension of the rules, I will draft the resolution and you can include it to this year's list.

SEN. TESTER stated, I don't have a problem with it but I think I need to talk with leadership first. I think it is something that needs to be done. I feel a little uncomfortable because I had a person on a board that said they really didn't meet and don't do anything. An independent committee looking at this would be positive.

Mr. Niss said, the benefit of doing it by legislative committee is that the whole apparatus for developing the record of legislation based upon the actual record before the committee is already there.

SEN. HARGROVE stated, I think it is a good idea but I am not sure that there would be time.

SEN. WELLS said, I had similar comments to those made to **SEN. TESTER**. The two people I talked with are brand new appointees. They didn't say the Board didn't do anything, since they were brand new. I interviewed someone from the Board of Athletics who indicated that they are not doing anything but overseeing the "Tough Man Competition". I started forming the same thoughts as **SEN. TESTER**, that somebody ought to be looking into this.

ADJOURNMENT

Adjournment: 1:43 P.M.

SEN. MACK COLE, Chairman

KERI BURKHARDT, Secretary

MC/KB

EXHIBIT (sts83aad)